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VIA CM/ECF

Honorable Mary K. Vyskocil
United States District Court
Southern District of New York
500 Pearl Street, Room 2230
New York, NY 10007

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 3/16/2020

Re: United States of America vs. Seth Fishman, 20-cr-00160 (S.D.N.Y.)
MOTION TO WAIVE MR. FISHMAN'S PERSONAL APPEARANCE AT
THE ARRAIGNMENT AND TO PERMIT THE UNDERSIGEND
TO APPEAR BY TELEPHONE

Dear Judge Vyskocil:

We write to you to respectfully request that, pursuant to Federal Rule of Criminal Procedure 10(b), your Honor accept Mr. Fishman's waiver of personal appearance at his arraignment, presently scheduled for March 23, 2020 at 10:00 am and to permit the undersigned to appear telephonically on his behalf. The grounds for the Motion are set forth below.

This request to waive Mr. Fishman's appearance and the undersigned's appearance is warranted under the circumstances. The undersigned's wife is 8.5 months pregnant and beginning next week is in the "safe zone" to deliver. As your Honor is aware, the corona virus poses a serious health concern to every citizen. As such, the undersigned cannot jeopardize his own health, his wife's health, or the health of others by travelling to and from busy airports such as Miami International and La Guardia International and/or JFK. Doing so potentially increases the chance of infection and, at the same time, poses the risk that the undersigned will miss the delivery of his daughter.

Mr. Fishman has also appeared before this court and has been subject to pre-trial conditions with which he has complied for 4 months.¹

¹ Four months ago, on November 12, 2019, Mr. Fishman voluntarily traveled to this District with the undersigned and first appeared in this district before Magistrate Katherine Parker. *U.S. v.*

Accordingly, Mr. Fishman hereby waives his personal appearance at the arraignment and requests that counsel be permitted to appear telephonically on his behalf during the scheduled arraignment on March 23, 2020. *See Fed. R. Crim. P. 10(b).* A written waiver of appearance executed by Mr. Fishman is attached hereto as **Exhibit B.** As reflected in the waiver, Mr. Fishman has received and reviewed a copy of the Indictment with undersigned counsel, Mr. Fishman enters a plea of "not guilty" to all counts in the Indictment and demands a trial by jury on each of those counts. Mr. Fishman further requests that your Honor accept the waiver of appearance as Mr. Fishman's first appearance for purposes of the speedy trial act under 18 U.S.C. Section 3161(c).

The undersigned has conferred with AUSA Sarah Mortazavi and Mrs. Mortazavi has no objection to the relief requested in this Motion

WHEREFORE, Mr. Fishman respectfully moves this Court to accept the waiver and to allow the undersigned to appear telephonically on his behalf at the scheduled arraignment on March 23, 2020.

Respectfully submitted,

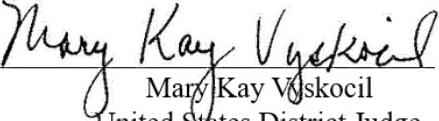
FELDMAN FIRM, PLLC



Andrew S. Feldman
Counsel for Seth Fishman, D.V.M.

GRANTED. Counsel for Defendant Seth Fishman is directed to email Chambers for instructions for setting up the teleconference call. SO ORDERED.

Date: 3/16/2020
New York, New York


Mary Kay Vyskocil
United States District Judge

cc:
all counsel of record

Seth Fishman, 19-mj-10120-UA (S.D.N.Y. 2019). Exhibit A are the conditions of release entered in that case. Mr. Fishman has complied with those conditions and the Government has indicated that they have no objection to Mr. Fishman remaining on those same conditions.

Honorable Mary K. Vyskocil

March 13, 2020

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed this day via CM/ECF and served on all counsel of record appearance.

s/Andrew S. Feldman